

Message Text

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INFO AMEMBASSY PARIS

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E.O. 11652: N/A

TAGS: COE, PINS, UN

SUBJ: COUNCIL OF EUROPE MEETING ON PROTECTION OF
DIPLOMATS, PARIS, SEPTEMBER 17-18

1. SUMMARY: COUNCIL OF EUROPE AD HOC COMMITTEE ON THE
PROTECTION OF MEMBERS OF DIPLOMATIC MISSIONS AND
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CONSULAR POSTS MET SEPTEMBER 17-18 AT PARIS OFFICE OF
COUNCIL. ELEVEN MEMBER STATES AND 3 OBSERVER STATES
PARTICIPATED. COMMITTEE CONSIDERED INTERNATIONAL LAW
COMMISSION DRAFT ARTICLES ON PROTECTION OF DIPLOMATS,

WITH FIRST SESSION CENTERING ON STRATEGY FOR CONSIDERATION OF ITEM AT 28TH GA AND THREE REMAINING SESSION CONSIDERING TEXT IN DETAIL. END SUMMARY.

2. PARTICIPANTS AT MEETING WERE: AUSTRIA (ALMOSLECHNER, PARIS EMBASSY); BELGIUM (VRANKEN, DE PAUW, AND DE VIDTS, MOFA); CYPRUS (MALLIOTIS, MOFA); FRANCE (JOUANNEAU); FRG (BUETOW, MOFA, AND WALTER, JUSTICE); ITALY (MARESCA, MOFA); NETHERLANDS (VAN SANTEN); SWEDEN (PERSSON, MOFA); SWITZERLAND (MONNIER, MOFA); TURKEY (TUNCEL, PARIS EMBASSY); UK (WOOD, FCO). OBSERVERS WERE: CANADA (APRIL, MOFA); FINLAND (VIERULA, MOFA); USU (BETTAUER, L/UNA); AND WESTERN EUROPEAN UNION (WESTHOF). SPAIN ALSO LISTED AS OBSERVER, BUT NEVER APPEARED. FRANCE ATTENDED MEETINGS SPORADICALLY. IN ABSENCE OF RITTER (SWITZERLAND), VRANKEN (DIRECTOR-GENERAL, BELGIAN MOFA) CHAIRED MEETING, EXCEPT FOR FINAL SESSION WHICH GOLSONG (COUNCIL LEGAL DIRECTOR) CHAIRED. VRANKEN PROVED EXCELLENT CHAIRMAN AND PARTICIPATED IN SUBSTANTIVE DISCUSSIONS FREQUENTLY.

3. PROCEDURAL ASPECTS

(A) AGENDA PRIORITY OF CONVENTION ON PROTECTION OF DIPLOMATS (CPD) ON 6TH COMITE AGENDA AT 28TH GA -- VRANKEN REPORTED THAT BELGIAN UN MISSION HAD BEEN INFORMED THAT ARAB GROUP WANTED DISCUSSION OF TERRORISM ITEM PRIOR TO CPD ITEM. HE SAID ARAB MOTIVES UNCLEAR. ALL AGREED IN PRINCIPLE THAT CPD SHOULD BE DISCUSSED AS FIRST ITEM (IMMEDIATELY AFTER ILC REPORT) IF POSSIBLE. VAN SANTEN WONDERED WHETHER IT WORTH OPPOSING TAKING UP TERRORISM FIRST. HE THOUGHT MIGHT BE READY TO MAKE DEAL TO HAVE BRIEF TREATMENT OF TERRORISM ITEM (E.G., ONLY ONE WEEK), AND IF WE AGREED MERELY TO CONTINUE MANDATE OF AD HOC COMITE, ARABS MIGHT AGREE TO ALLOWING ADOPTION OF CPD. VRANKEN, WHILE RECOGNIZING RISKS (E.G. THAT THIS WAS PLOY TO ENSURE NO CONCRETE RESULT EITHER ON TERRORISM OR LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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ON CPD) AND SLIM LIKELIHOOD OF GETTING ACCEPTABLE DEAL WITH ARABS, SUPPORT VAN SANTEN'S RECEPTIVITY TO SUCH AN OUTCOME. APRIL QUESTIONED WISDOM OF TREATING TERRORISM FIRST. BETTAUER OPPOSED SLIPPAGE OF CPD ON BASIS THAT DELAY MIGHT NOT LEAVE ENOUGH TIME FOR ADOPTION OF CPD, THAT ANIMOSITIES LIKELY TO ARISE IN TERRORISM DEBATE MIGHT SPILL OVER TO CPD, AND THAT THIS MIGHT CREATE UNDESIRABLE LINKAGE OF CPD TO TERRORISM. ALL AGREED THAT IF TERRORISM TAKEN UP FIRST AND DRAGGED ON, E.G., THREE WEEKS, THERE WOULD BE NO CHANCE OF SUCCESS ON CPD. MARESCA ARGUED THAT, AS MATTER OF SUBSTANTIVE LOGIC, CPD MUST BE TREATED FIRST. HE ASKED WHETHER ARABS COULD BE SPLIT ON THIS MATTER AND WHETHER SOVIETS MIGHT BE

WILLING TO WORK FOR AGENDA PRIORITY FOR CPD. ALL AGREED
ON NEED FOR FURTHER SOUNDINGS OF ARAB INTENTIONS.
(JOANNEAU HOWEVER SAID FRENCH RESERVED POSITION ON THIS
AS WELL AS ON OTHER MATTERS.)

(B) DRAFTING COMMITTEE -- ALL AGREED SMALL DRAFTING
COMMITTEE DESIRABLE. VAN SANTEN ARGUED THAT IF DRAFTING
COMMITTEE NOT SMALL IT WOULD BE USELESS, BUT OTHERS ALL
THOUGHT THAT, WHILE SMALL SIZE DESIRED, ANY DRAFTING
COMMITTEE BETTER THAN NONE AT ALL. WOOD SUGGESTED
DRAFTING COMMITTEE MIGHT WORK IN PARALLEL TO 6TH COMMITTEE,
TAKING UP ARTICLES OF CPD AS DISCUSSION ON THEM FINISHED
IN FULL COMMITTEE. ISSUE OF WHO WOULD PARTICIPATE ON
DRAFTING COMMITTEE LEFT TO BE DECIDED IN NEW YORK.

(C) GENERAL DEBATE -- WOOD SUGGESTED IT DESIARABLE
TO AVOID GENERAL DEBATE IN 6TH COMITE ON CPD AND GO
IMMEDIATELY TO ARTICLE-BY-ARTICLE DISCUSSION. VRANKEN
THOUGHT THIS MIGHT BE DIFFICULT TO ACHIEVE AND RESULT IN
PROCEDURAL FIGHT. WOOD SAID THIS PROCEDURE WOULD OF COURSE HAVE
TO BE WORKED OUT BEHIND SCENE AND NOT WORTH EXTENDED
DELAY. BUETOW SAID THAT IF THERE WAS A GENERAL DEBATE,
WESTERN STATEMENTS SHOULD BE BRIEF. VRANKEN SUGGESTED WEST
MIGHT DECIDE NOT TO PARTICIPATE IN GENERAL DEBATE, BUT
WOOD AND BETTAUER THOUGHT THEIR GOVERNMENTS WOULD PROBABLY
SPEAK IF IT DECIDED TO HAVE GENERAL DEBATE.

(D) PARTICIPATION IN 6TH COMITE WORK -- MONNIER
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SAID SWITZERLAND INTENDS TO REQUEST TO BE ALLOWS TO
PARTICIPATE IN WORK ON CPD WITHOUT VOTE.

(E) WHEN ISSUES OF LOBBYING AND OF STRATEGY IN PRE-
SENTING AMENDMENTS RAISED, VRANKEN (AND LATER, GOLSONG)
SAID SUCH MATTERS SHOULD BE LEFT TO DISCUSSIONS IN NEW YORK.

4. IT DECIDED THAT DRAFTING PRECISE LANGUAGE OF AMENDMENTS
WOULD BE LEFT TO NEW YORK AND DISCUSSION WOULD INSTEAD
FOCUS ON ISSUES IN CPD.
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5. ARTICLE 1

(A) COVERAGE OF PARAGRAPH 1(B) -- ALL FAVORED CLARI-

FICATION OF WHICH PEOPLE COVERED BY CPD, BUT AT ONE POINT
VRANKEN SAID WE MAY HAVE TO DECIDE WHETHER TO SWALLOW
TEXT AS IS OR LOSE WHOLE BATTLE ON CPD. PERSSON PREFERRED
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ENUMERATION OF CATEGORIES OF PEOPLE COVERED TO GENERAL
DEFINITION. HE THOUGHT LISTING BEST METHOD TO CLARIFY
COVERAGE, WHETHER TI BROADENED OR NARROWED FROM CURRENT VERSION.
VRANKEN SAID IF LIST USED, APPROPRIATE ONE CONTAINED IN
ARTICLE 2(G) OF KEARNEY DRAFT, A/CN.412/L.182 (1972).
WOOD THOUGHT IT WOULD BE IMPRACTICAL TO NEGOTIATE LIST
IN 6TH COMITE AND THOUGHT NECESSARY CLARIFICATIONS COULD
BE ACHIEVED BY STATEMENTS FOR THE RECORD (E.G., THAT
LOWER LEVEL IO OFFICIALS NOT COVERED). APRIL AND BETTAUER
ALSO THOUGHT ILC VERSION ACCEPTABLE. THEY SAID THAT IF
CLARIFICATION REQUIRED, E.G. UK PROPOSAL ON TIME AND PLACE
(AUG. 6 VAN BRUSSELEN MEETING) OR CLARIFICATION THAT

"SPECIAL PROTECTION" RELATED TO TYPE OF DUTY IN ARTICLE 29 OF VIENNA CONVENTION ON DIPLOMATIC RELATIONS, IT BEST TO TAKE ILC VERSION AS BASIS OF WORK. MONNIER AND VAN SANTEN THOUGHT IT NECESSARY TO CLARIFY THE ILC DRAFT. VRANKEN THOUGHT "SPECIAL PROTECTION" WAS VAGUE AND COULD BE READ TO COVER PERSONS EVEN WITH LIMITED PRIVILEGES AND IMMUNITIES. HE SUGGESTED REPLACING "SPECIAL PROTECTION" WITH "HAS THE RIGHT TO INVIOABILITY OR TO SPECIAL PROTECTION SUCH AS PROVIDED (COMME PREVUE) BY ARTICLE 40 OF THE VIENNA CONVENTION ON CONSULAR RELATIONS." BUETOWN SUPPORTED VRANKEN'S PROPOSAL, AS WELL AS UK PROPOSAL ON TIME AND PLACE. BUETOWN ALSO SUGGESTED THAT ONLY MEMBERS OF HOUSEHOLD BE COVERED AS FAMILY, BUT PERSSON NOTED THIS NOT REQUIRED AS ILC VERSION REQUIRED FAMILY MEMBERS LIKEWISE BE ENTITLED TO SPECIAL PROTECTION. MARESCA ARGUED THAT IT WOULD CREATE DIFFICULTIES TO "EXTEND PROTECTION" TO SOME AND NOT TO OTHERS UNDER PARA 1(B), BUT APRIL, WOOD, AND PERSSON POINTED OUT THAT THIS PARA DEFINED SCOPE OF CPD AND DID NOT ACTUALLY HAVE ANYTHING TO DO WITH EXTENDING PROTECTION. ALONG LINES SIMILAR TO MARESCA, JOUANNEAU SAID KEY QUESTIONS UNDER PARA WERE WHO WOULD BE PROTECTED AND WHO WOULD HAVE DUTY TO PROTECT THEM. HE SUGGESTED PARAGRAPH 1(B) BE LIMITED TO THOSE WHO RECEIVED SPECIAL PROTECTION BECAUSE OF THEIR FUNCTIONS, BUT OTHERS OBJECTED THAT THIS FORMULATION WOULD CUT OUT MANY OF DIPLOMATIC STATUS WHO RECEIVED PROTECTION REGARDLESS OF THEIR FUNCTIONS. VRANKEN CONCLUDED DISCUSSION THIS PARAGRAPH BY NOTING "AN IMPORTANT NUMBER" OF DELS THOUGHT CURRENT TEXT NOT FULLY SATISFACTORY AND LIMITED OFFICIAL USE
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"SPECIAL PROTECTION" SHOULD BE CLARIFIED.

(B) PERSSON SUGGESTED PARA 1(B) REFERENCE TO INTERNATIONAL AGREEMENTS BE LIMITED TO MULTILATERAL ONES, BUT WOOD POINTED OUT THIS WOULD EXCLUDE HEADQUARTERS AGREEMENTS. PERSSON SAID THOSE COULD BE LISTED SEPARATELY.

(C) COVERAGE OF PARAGRAPH 1(B) -- WOOD NOTED THAT UK COURTS HAVE DIFFICULTY WITH SPECIAL STATUS FOR HEADS OF GOVT, BUT DIDN'T PRESS POINT. BETTAUER SAID US COULD SUPPORT EXPANDING COVERAGE TO CABINET RANK OFFICIALS.

(D) DEFINITION OF "INTERNATIONAL ORGANIZATION" IN PARAGRAPH 3 -- MONNIER, WOOD, AND BRANKEN DISCUSSED WHETHER CPD APPLIED TO "UNRECOGNIZED" (REGIONAL) INTERNATIONAL ORGANIZATIONS, BUT CONCLUDED BY AGREEING DISCUSSION OF SUCH ESOTERIC POINTS AT GA WOULD ONLY RESULT IN CONFUSION. SIMILAR DISCUSSION HELD ON APPLICATION OF CPD UNDER PARA 1(A) TO HEAD OF UNRECOGNIZED STATE.

6. ARTICLE 2

(A) PENALTIES (PARAGRAPH 2) -- PERSSON OPPOSED

"SEVERE" PENALTIES. APRIL SUGGESTED TAKING HAGUE CONVENTION FORMULATION AND MARESCA SUPPORTED. WOOD OPPOSED "AGGRAVATED" OFFENSE. BUETOW SAID FRG COULD ACCEPT ILC OR HAGUE FORMULATION. MARESCA, SUPPORTED BY BRANKEN, PROPOSED REPLACING "SHALL MAKE ... PUNISHABLE" WITH "S'ENGAGE A REPRIMER."

(B) UNIVERSAL JURISDICTION (PARAGRAPH 3) -- WOOD

CIRCULATED TEXT OF AMENDMENT HE SUBMITTED TO AUGUST MEETINGS OF VAN BRUSSELEN GROUP. BUETOW AND PERSSON SAID THEY COULD ACCEPT UNIVERSAL JURISDICTION. VAN SANTEN AND VRANKEN SUPPORTED UK PROPOSAL. BETTAUER SAID UK PROPOSAL WOULD BE ACCEPTABLE.

(C) KNOWLEDGE OF THE VICTIM'S STATUS AND MOTIVE

(PARAGRAPH 1) -- JOUANNEAU SAID FOR COVERAGE UNDER ARTICLE 2, CRIME MUST BE PARTICULARLY GRAVE AND ODIOS, ALLEGED OFFENDER MUST HAVE KNOWLEDGE OF THE OFFICIAL LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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STATUS OF THE VICTIM, AND MUST BE COMMITTEE BECAUSE OF STATUS. BUETOW SAID LINK BETWEEN CRIME AND OFFICIAL STATUS IMPORTANT. SINCE FRG PROPOSAL CONTAINED IN FRG COMMENTS ON DRAFT ARTICLES HAD BEEN CRITICIZED, HE SUGGESTED NEW PROPOSAL OF ADDING TO PARAGRAPH 1: "UNLESS THE OFFENSE IS COMMITTEE FOR MOTIVES (OBVIOUSLY) (APPARENTLY) NOT RELATED TO THE STATUS OF THE PROTECTED PERSON." VRANKEN OPPOSED FRG PROPOSAL. VAN SANTEN SAID IT WOULD CREATE TREMENDOUS LOOPHOLE. MONNIER, HOWEVER, SUPPORTED FRG VIEW AND SAID GOS MADE SIMILAR PROPOSAL IN ITS COMMENTS. BETTAUER OPPOSED MOTIVE ELEMENT BECAUSE IT WOULD VASTLY WEAKEN PREVENTIVE SCHEME, CREATE SIGNIFICANT LOOPHOLE FOR STATES TO AVOID THEIR OBLIGATIONS, CREATE DIFFICULTIES IN RELATION TO "REGARDLESS OF MOTIVE" LANGUAGE (AND THUS ASYLUM ISSUE), CREATE PROBLEMS OF PROFF, AND LINK CPD TO TERRORISM ISSUES. HE SAID MOST THAT WAS ACCEPTABLE WAS REQUIREMENT THAT OFFENDER KNEW OR HAD REASON TO KNOW OF OFFICIAL STATUS. MARESCA, VAN SANTEN, APRIL, WOOD SUPPORTED THIS VIEW AND THOUGHT WOULD "INTENTIONAL" SUFFICIENT IN THIS REGARD. BUETOW THEN SAID FRG DID NOT REALLY INSIST ON "MOTIVE" BUT ON "KNOWLEDGE" OF THE OFFICIAL STATUS AND AN APPROPRIATE LINK OF THE CRIME TO THE STATUS. FRG READY TO KEEP "REGARDLESS OF MOTIVE" LANGUAGE IN BEGINNING OF PARA 1. VRANKEN WONDERED WHETHER WORD "DELIBERATELY" INSTEAD OF "INTENTIONAL" WOULD SOLVE PROBLEM.

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COMMENT: IT MAY BE POSSIBLE TO GET FRG TO DROP
INSISTENCE ON "MOTIVE" LANGUAGE AND SATISFY THEM WITH
LANGUAGE ABOUT KNOWLEDGE OF VICTIM'S STATUS. IN PRIVATE
TALKS WITH BUETOW AND WALTER ON THIS ISSUE, BETTAUER
LEARNED THAT FRG PROPOSALS ON "MOTIVE" STEM FROM CONCERN
THAT CRIME COMMITTED AGAINST A CRIMINAL DIPLOMAT NOT BE
COVERED, E.G., DIPLOMAT ILLEGALLY DEALING IN NARCOTICS

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MURDERED BY ONE OF HIS PARTNERS WHO KNEW VICTIM A
DIPLOMAT BUT KILLED HIM FOR REASONS RELATING TO THEIR
ILLEGAL DEALINGS AND NOT FOR REASONS RELATING TO HIS OFFICIAL

STATUS. BETTAUER TRIED TO PURSUADE FRG REPS THAT THIS HYPOTHETICAL PROBLEM WOULD OCCUR INFREQUENTLY IF EVER AND SHOULD BE DISREGARDED IN VIEW OF OTHER DAMAGING ASPECTS OF INTRODUCING "MOTIVE" REQUIREMENT. FRG REPS AGREED THAT KNOWLEDGE OF THE OFFICIAL STATUS OF THE VICTIM WOULD IN MOST INSTANCES COVER FRG CONCERN THAT CRIME IN FACT RELATED DIRECTLY TO THAT STATUS; THEY AGREED THIS SHOULD PROVIDE FRG EXECUTIVE BRANCH ADEQUATE EXPLANATION FOR THEIR PARLIAMENT OF WHY THESE CRIMES GIVEN SPECIAL TREATMENT. END COMMENT.

(D) "VIOLENT ATTACKS" (PARAGRAPH 1(A)) -- VRANKEN SAID A "VIOLENT ATTACK" UNDER PARA 1(A) COULD BE RELATIVELY MINOR. WOOD, CITING PARA 4 OF THE ILC COMMENTARY, SAID ILC REALLY ONLY CONCERNED ABOUT SERIOUS CRIMES, AND MAYBE "SERIOUS" SHOULD BE SUBSTITUTED FOR "VIOLENT." APRIL AGREED WITH WOOD. ALL AGREED ONLY SERIOUS OFFENSES SHOULD BE COVERED. BETTAUER NOTED THAT ANOTHER WAY TO DEAL WITH THIS PROBLEM COULD BE TO LIST THE OFFENSES IN PARA (A), AS IN THE OAS CONVENTION.

(E) "THREATS" (PARAGRAPH 1(C)) -- WOOD NOTED UK DIFFICULTIES WITH THIS PARA.

7. ARTICLE 3, PARAGRAPH (A) -- WOOD, VRANKEN, BUETOW, AND APRIL SUPPORTED BRINGING LANGUAGE CLOSER TO THAT IN ARTICLE 10(1) OF MONTREAL CONVENTION.

8. ARTICLE 4 -- VRANKEN AND APRIL SAID THIS ARTICLE IMPOSES HEAVY BURDEN. WOOD SUGGESTED LIMITING REQUIRED NOTICE TO STATES THAT HAD PRIMARY JURISDICTION (UK PROPOSED ARTICLE 2A) AND SUCH OTHER STATES WHERE THE ALLEGED OFFENDER IS LIKELY TO BE. BUETOW MADE STRONG PITCH FOR NEW PROVISION REQUIRING IMMEDIATE AND FULL REPORTING TO STATE OF WHICH VICTIM A NATIONAL OF ALL PARTICULARS OF CRIME AND FOLLOW-UP. VRANKEN STRONGLY OPPOSED HAVING PROVISIONS IN SAME ARTICLE ON INFORMATION ABOUT OFFENDER AND INFORMATION ABOUT VICTIME. HE ALSO SAID FRG PROPOSAL DIFFICULT BECAUSE LIMITED OFFICIAL USE
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BELGIAN (AND SEVERAL OTHER STATES) HAD LAWS ALLOWING ALLEGED OFFENDER TO BE HELD INCOMMUNICADO FOR A SET PERIOD, DURING WHICH IT UNABLE TO AGREE TO SUPPLY INFORMATION.

9. ARTICLE 5 -- WIDE SENTIMENT EXPRESSED THAT PARA 1 SHOULD BE BROUGHT INTO LINE WITH HAGUE CONVENTION FORMULATION.

10. ARTICLE 6

(A) ASYLUM -- VRANKEN REPORTED THAT BELGIAN UN MISSION INFORMED THAT LATIN GROUP HAD SAID THEY COULD NOT ACCEPT ANY CPD UNLESS ARTICLE ON ASYLUM INCLUDED. LATER, GOLSONG (THEN IN CHAIR) NOTED THAT FINLAND HAD SAID IN ITS COMMENTS THAT THERE NEED TO CLARIFY ISSUES RELATING TO RIGHT OF ASYLUM. COMMENT: BETTAUER PRIVATELY INQUIRED OF VIERULA WHAT GOF HAD IN MIND. VIERULA SAID GOF WANTED CLARIFICATION OF RELATIONSHIP OF ASYLUM TO CPD, BUT HAD NOT FORMULATED ANY SPECIFIC PROPOSALS. BETTAUER GAVE EXPLANATION THAT IN U.S. VIEW RIGHT TO ASYLUM NOT AFFECTED SINCE STATE COULD REFUSE TO EXTRADITE (BUT STILL HAD TO SUBMIT FOR PROSECUTION). END COMMENT.

(B) APRIL AND PERSSON PROPOSED BRINGING FINAL CLAUSE INTO LINE WITH HAGUE/MONTREAL CONVENTION FORMULA.

(C) PERSSON PROPOSED CHANGING LANGUAGE TO "IF IT DOES NOT WANT TO EXTRADITE," BUT BUETOW AND BETTAUER SAID THIS WOULD BE TECHNICALLY INADEQUATE.

11. ARTICLE 7

(A) JURISDICTION TO REQUEST EXTRADITION -- APRIL SAID ILC TEXT ACCEPTABLE, BUT WOULD BE PREFERABLE TO LIMIT TO STATES WITH LINKS TO CRIME: (I) PLACE OF CRIME, (II) STATE OF WHICH ALLEGED OFFENDER A NATIONAL, (III) STATE OF WHICH VICTIM A NATIONAL. WOOD EXPLAINED THAT UK AMENDMENT TO ARTICLES 2 AND 7 WOULD COVER THIS PROBLEM. VAN SANTEN ARGUED THAT IF UNIVERSAL JURISDICTION IN ARTICLE 2 WAS CUT BACK, THEN JURISDICTION TO LIMITED OFFICIAL USE
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REQUEST EXTRADITION SHOULD BE EXPANDED. BETTAUER AND WOOD EXPLAINED DIRECT LINKAGE BETWEEN PROVISION REQUIRING STATES TO ESTABLISH JURISDICTION AND NUMBER OF STATES THAT HAD JURISDICTION TO REQUEST EXTRADITION.

(B) JOUANNEAU PROPOSED THAT PARAGRAPH 2 BE REVISED TO PROVIDE "IT SHALL ... CONSIDER." WOOD SAID THIS UNDESIRABLE BECAUSE UK WANTED TO HAVE OPTION OF DECIDING WHETHER CPD CONSTITUTED EXTRADITION TREATY. VAN SANTEN SUPPORTED FRENCH PROPOSAL, AS WELL AS LANGUAGE FROM ARTICLE 8 OF HAGUE CONVENTION. BETTAUER AGREED CHANGING "MAY" TO "SHALL" WOULD STRENGTHEN EXTRADITION ARTICLE WITHOUT CHANGING OPTION OF STATE UNDER ARTICLE 6, AND WONDERED WHETHER UK DIFFICULTIES WITH STRONGER LANGUAGE WERE REAL.

(C) VAN SANTEN SUGGESTED DELETION OF "PROCEDURAL" FROM PARA 2. MARESCA AND MONNIER SAID THIS WOULD ALLOW

TREATING OFFENSE AS "POLITICAL" OFFENSE. JOUANNEAU DISAGREED, ARGUING CPD CREATED EXCEPTION TO POLITICAL OFFENSE DOCTRINE. WOOD SAID JOUANNEAU WAS WRONG AND THAT "POLITICAL OFFENSE" DOCTRINE NOT AFFECTED. IN THIS CONNECTION, WOOD STRONGLY SUPPORTED DELETION OF "PROCEDURAL". HE SAID THIS WOULD ALLOW APPLICATION OF SUBSTANTIVE LAW. HE SAID IN UK A COURT MIGHT FIND ALLEGED OFFENDER HAD COMMITTED A "POLITICAL OFFENSE", AND THAT HE COULD NOT BE EXTRADITED. IN THIS CASE, UK WOULD SUBMIT TO PROSECUTION.

12. ARTICLE 8 -- MONNIER SUGGESTED DELETION.

13. ARTICLE 9 -- GOLSONG REVIEWED THAT FRANCE HAD SUGGESTED DELETION AND DENMARK, FRG, AND SWEDEN HAD SUGGESTED MODIFICATION.

14. ARTICLE 10 -- BUETOW SUGGESTED DELETING WORD "JUDICIAL" IN PARAGRAPH 2. THIS WOULD ALLOW FOR BROADER MUTUAL ASSISTANCE. PERSSON SUPPORTED DELETION.

15. ARTICLE 12 -- GOLSONG NOTED THAT FINLAND HAD IN ITS LIMITED OFFICIAL USE
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COMMENTS SUGGESTED COMBINATION OF ALTERNATIVES A AND B, WITH A MANDATORY ARBITRATION FALLBACK. OTHERS HAD SUGGESTED VIENNA CONVENTION OR ICJ CLAUSES. BETTAUER EXPLAINED POSSIBLE COMBINATION MAKING ALTERNATIVE A MANDATORY AND ALTERNATIVE B AN OPTIONAL FALLBACK. VAN SANTEN ARGUED AGAINST COMBINATION AND FOR ALTERNATIVE B. APRIL AND MARESCA FAVORED ALTERNATIVE B. WOOD SUGGESTED FINAL DECISION ON DISPUTE SETTLEMENT CLAUSE BE LEFT OPEN UNTIL SUBSTANTIVE PROVISIONS ESTABLISHED. GOLSONG SUGGESTED FURTHER DISCUSSION OF THIS ISSUE BE HELD IN NEW YORK.

16. IN CLOSING MEETING, GOLSONG SAID COUNCIL REPORT ON MEETING WOULD BE SENT OUT IN ABOUT ONE WEEK.
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